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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,811

08/04/2004

David J. Lovell

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EXAMINER

COONEY, JOHN M

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

08/11/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/710,811	<b>Applicant(s)</b> LOVELL ET AL.	
	<b>Examiner</b> John Cooney	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) 12, 13 and 15-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6-18-08 has been entered.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ricciardi et al.(4,741,951) in view of Niederoest et al.(6,372,812), Deeks(5,951,802), Westfall et al.(4,883,825), Bailey, Jr. et al.(4,686,240), and Thompson et al.(2004/0216949).

Ricciardi et al. discloses preparations of vehicle trim components wherein foam-forming mixtures prepared from polyols as claimed and isocyanates and combinations as claimed in amounts as required by applicants' claims, water as the blowing agent, fire retardant, catalysts, surfactants, stabilizers and other additives/assistants are mixed

and foamed and adhered to barrier layers with adhesives followed by shaping to degrees as claimed and the realization of shaped laminate articles (see column 1 line 24 – column 6 line 14, and the examples, as well as, the entire document).

Ricciardi et al. differs from claims 1-8 in that low pressure foaming conditions are not particularly employed. However, Niederoest et al. discloses preparation of polyurethane foams through use of reduced pressures as claimed for the purpose of obtaining articles with good support properties and lower densities (see column 2 lines 45-60, as well as, the entire document). Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the reduced pressure foaming operations disclosed by Niederoest et al. in the preparations of Ricciardi et al. for the purpose of obtaining products of good properties with lower densities in order to arrive at the processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

Applicants' claims 1-8 further differ from Ricciardi et al. in that formation of holes in the formed articles is not particularly required. However, Deeks (see column 5 lines 9-12, as well as, the entire document) discloses formation of apertures in shaped vehicle trim articles to be a well known finishing operation for purposes of obtaining functional finished products. Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the aperture forming punching operations of Deeks to the shaped articles of Ricciardi et al. for the purpose of providing functional finished articles in order to arrive at the processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

As to the product claim 14, though densities meeting those of applicants' claims are not particularly required by Ricciardi et al., Niederoest et al. indicates its reduced pressure operations to be useful (see column 2 lines 45-60, as well as, the entire document) for the purpose of obtaining articles with good support properties and lower densities. Accordingly, it would have been obvious for one having ordinary skill in the art to have prepared the articles of Ricciardi et al. through the lower pressure operations disclosed by Niederoest et al. for the purpose of obtaining useful articles of reduced density in order to arrive at the product of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results. Additionally, it has long been held that where the general conditions of the claims are disclosed in the prior art, discovering the optimal or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233; *In re Reese* 129 USPQ 402 . Further, a prima facie case of obviousness has been held to exist where the proportions of a reference are close enough to those of the claims to lead to an expectation of the same properties. *Titanium Metals v Banner* 227 USPQ 773. **(see also MPEP 2144.05 I)** Similarly, it has been held that discovering the optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272,205 USPQ 215 (CCPA 1980).

Claim 2 and 14 differ from Ricciardi et al. in that Ricciardi et al. does not particularly exemplify hardness properties for its articles. However, Westfall et al. discloses formulation and operational controls in forming water based flexible foam high resilient article preparations having hardness properties of applicants' claims to be well known (see column 1 and examples, including Table X, as well as, the entire document)

for the purpose of obtaining articles having good cushioning and resilience.

Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the formulational compositions provided for by Westfall et al. in the preparations of Ricciardi et al. for the purpose of imparting the cushioning and resilience effects afforded by these compositions in order to arrive at the products and processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

Furthermore, in addition to the above reasons and/or if obviousness of the ranges of density and hardness values of applicants' claims values based on the above positions is not evident, it is held that Bailey, Jr. et al. (see column 11 lines 47-63, as well as, the entire document) discloses control of the quantity of water as a blowing agent in flexible foam forming operations to be well known for its impact density and hardness values desired. Accordingly, it would have been obvious for one having ordinary skill in the art to have controlled the employment of water as a blowing agent as provided for by Bailey, Jr. et al. in the preparations of Ricciardi et al. for the purpose of controlling density and hardness values in products obtained in order to arrive at the products and processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results. It has long been held that where the general conditions of the claims are disclosed in the prior art, discovering the optimal or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233; *In re Reese* 129 USPQ 402 . Similarly, it has been held that discovering the

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optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272,205 USPQ 215 (CCPA 1980).

Applicants' claims differ from Ricciardi et al.'s disclosure in that Ricciardi et al. does not exemplify or specify the plastics which may be used as the reinforcing, backing, or decorative layers of their invention. However, Thompson et al.(2004/0216949) (paragraph [0018], as well as, the entire document) discloses the plastic materials of applicants' claims to be well known support substrate materials used in the preparation of foam laminate articles for the purpose of imparting their structural support effects. Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the plastics of Thompson et al. as the plastic reinforcing, backing, or decorative layers used in Ricciardi et al. for the purpose of imparting their structurally reinforcing effect in order to arrive at the products and processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John Cooney/

Primary Examiner, Art Unit 1796

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